Introduction

Rising non-tariff protectionism and crisis recovery

By Mia Mikic

During 2009, the Asian-Pacific economies witnessed the collapse of trade unprecedented in modern economic history. This collapse has been combined with contractions in production and rising unemployment in almost all economies. In their efforts to address these serious challenges, policymakers in many countries opted to use trade restrictions, often but not always, in line with the flexibility left by the multilateral trading rules on the use of contingent measures. The first impression about policy reactions to the crisis has been that many among the trade-related measures, which were enacted, were of a so-called non-tariff nature. Because this non-tariff protection lacks precision in terms of definition of instrument, measurability and comparability, among other problems, it is typically deemed to be much more problematic than tariff based protection. In order to bring more clarity on these issues, the ESCAP secretariat has teamed up with WTO and UNCTAD in organizing a research workshop under the title, “Rising non-tariff protectionism and crisis recovery” (14-15 December 2009) as part of the MARKHUB workshop series. Researchers from the region, in particular those associated with ARTNeT, as well as experts from outside the region, were called upon to submit their studies on the non-tariff based protectionism affecting developing and the least developed countries of the region.

The research questions that were posed to prospective participants at the workshop included, inter alia, the following:

- How protectionism is developing in the least developed countries since the on-set of the crisis and what were the most frequent trade restrictions used?
- Is trade-distorting the fiscal stimuli packages and what has been other responses to this crisis?
- Are regional trade agreements (RTAs) effective in taming the non-tariff measures, including the technical, sanitary and phytosanitary standards?
- Is non-tariff protectionism more prevalent in North-South trade than in South-South trade?
- Is a danger of Green protectionism real?
- What is the preference of various stakeholders in developing countries with respect to types of trade restrictions?
- Is harmonization of standards impossible?
- Is there a trade-off between further liberalization in the Doha Development Agenda (DDA) and future increase in non-tariff and behind-the-border protection?

Organizers also teamed up with the Global Trade Alert (GTA) Initiative and its coordinator Simon Evenett in preparation of the third GTA Report to have a particular focus on Asia and the Pacific region. The report (available at www.globaltradealert.org) was launched at the workshop and the content of the Report contributed towards answering some of the above listed questions.
This volume includes nine chapters; some were written specifically for the workshop and this volume, while some resulted from the ongoing research on broader topics. While these chapters do not exhaust all relevant questions on the non-tariff protectionism, they provide a good inroad into the *problematique*. The selected lessons learned from the papers and the workshop are summarized below. So, what have we learned on these selected topics?

**A. Definition and classification of measures**

The concept of the non-tariff measures (NTMs) and non-tariff barriers (NTBs) has been discussed in the trade literature for many years, but we still have not come closer to having a unanimous decision on definitions. In chapter IX by Basu and Kuwahara the reader is reminded of UNCTAD activities in this thematic area about the search for the common definition, classification and approaches to measurement. Two points are emphasized in the introduction: (1) Not all non-tariff measures restrict trade in a discriminative way, which is to say that not all of them are non-tariff barriers. Why do we then prefer to still address this area or interventions in terms of NTM, rather than policies that are much more similar to the impact of tariffs which are NTBs? Simply because at any moment NTM can be turned into NTB and thus to get a full impression of the possible impact of non-tariff protectionism one has to consider NTM. Basu and Kuwahara define NTMs as policy measures, other than ordinary customs tariffs, that can potentially have an economic effect on international trade in goods, changing quantities traded or prices, or both. So the practical way out of this acronym and terms conundrum will be to adopt a term such as non-tariff protection (NTP), as done in this workshop. (2) Often there is an argument that the use of NTP has been increasing to make up for the reduction of tariff levels which were targeted through successive multilateral rounds and RTAs. With lower tariff protection, countries still need to have some sort of buffer from the international competition and therefore they opt to apply some form of NTP. This however does not mean that NTP was not known and used in times of high tariffs. In fact, at times when discussions were held to address the high tariffs back in 1945, a document called “Proposals for Expansion of World Trade and Employment” prepared for an International Conference on Trade and Employment, included this paragraph: “A transaction…may be prevented because the tariff of the buyer’s country creates an added costs too great to be borne; or because the paper-work required for export or import is so burdensome that the deal is not worth while; or because the seller cannot get an export licence; or because the buyer cannot acquire the seller’s currency to make a payment, or because importation is restricted by the buyer’s country to a quota which has been exhausted; or because it is forbidden altogether” (Department of State, 1945, p. 2). So clearly NTP was known and used with high tariffs. However it is also true that a variety of instruments and the frequency of their use has grown with tariff cuts, sending mixed signals on the intention to completely liberalize trade, as also noted by Basu and Kuwahara about the “…mismatch between the reduction of tariffs arising from the GATT/WTO multilateral agreements and…preferential trade agreements…on the one hand, and the proliferation of non-tariff measures, on the other”.

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1 The full workshop programme and presentations are available from this website <http://www.unescaop/tid/projects/ntp.asp>
B. Tracking of non-tariff protection and use of such protection in South-South trade

Measuring the level of NTP (in terms of tariff-equivalents) obviously is a problem as it is not clear which measures/policies to count in and, moreover, the choice would differ across countries. Ando and Obashi, in chapter II, illustrate the frequency ratio measure based on the inventory approach for the case of ASEAN. They constructed a common dataset of NTMs across states in ASEAN in an attempt to identify what types of NTMs are implemented, how pervasive they are and which industries receive more protection through such measures. Recognizing the absence of unique classification, the authors follow UNCTAD’s classification adopted by Trade Analysis and Information Systems (TRAiNS) Trade Control Measures Classification. This allows them to split all NTMs into core and non-core NTMs and interpret the core ones as unambiguous trade barriers, while non-core measures are disguised measures with the potential to distort trade. Only the Lao People’s Democratic Republic does not adopt any core-NTMs, while other countries use almost the full arsenal of measures (see table 1 in chapter II). In ASEAN as a whole, almost half of the tariff lines (49 per cent) are subject to some type of the NTMs; Cambodia and Thailand cover the fewest number of lines (6 and 11 per cent, respectively, in 2007). Three countries, Indonesia, Myanmar and the Philippines are found to cover all product lines with one or other type of NTMs. They also found that across ASEAN on average the frequency ratios are higher for the non-core NTMs (32 per cent) than by core NTMs (27 per cent). It seems that some products attract more protection: non-core NTMs, particularly health and sanitary regulations and quality standards are widely applied mainly to the industries of animals, plants and food. Moreover, it seems that these products as well as chemicals and chemical products and machineries receive protection from various NTM simultaneously applied. Ando and Obashi underline how this simultaneous use of multiple forms of NTMs increases overall cost of protection due to higher administrative and time costs of their implementation.

ASEAN’s evolution into the ASEAN Economic Community rests on reduction and complete elimination of the use of NTMs among the members which will also facilitate further development of international production and distribution networks which involve ASEAN members. In general, it is expected that the use of disguised protection of NTP type would be less among developing countries (i.e. South-South trade) than in trade between developed and developing countries (i.e. North-South trade). Rajan Ratna in chapter III uses the case of India to investigate if this contention would be true under the challenge of the global economic crisis.

Ratna finds that historically South-South trade shows greater resilience in post crisis episodes. Based on the most recent crisis experience in 2009, the newly industrialized economies of Asia have seen their trade flows rebound more strongly than developed economies, suggesting that much of their recent growth could be due to intra-regional trade. The Republic of Korea’s exports to the world grew more slowly in July (22 per cent) than its exports to Asia (26 per cent) or to China (27 per cent). The fact that China’s imports grew twice as fast as its exports in July (16 per cent versus 8 per cent) also suggests that intra-Asian trade could be benefiting from the country's fiscal stimulus. In addition, China and India have maintained a high rate of GDP growth, showing the strength of their economies.

Ratna further suggests that the developing countries in the Asia-Pacific region should start looking at the markets of their neighbours, especially China and India for diversifying
their exports. They also ought to pay more attention on how to more effectively utilize the existing and currently negotiated preferential trade agreements (PTAs). The utilization levels of PTA preferences are deemed to be increasing (albeit very slowly) in the Asia-Pacific region, reaching about 25 per cent for members of the Association of Southeast Asian Nations (ASEAN), 35 per cent for the Asia-Pacific Trade Agreement (APTA) and 15 to 20 per cent for the South Asian Free Trade Area (SAFTA). Another issue raised by Ratna is difficulties in removal of NTMs that have been imposed by several developed countries during the crisis. The only way, he suggests, for the developing countries to expand exports is to look at the markets of other developing countries.

Tambunan in chapter IV explores the Indonesian experience during the last global economic crisis and studies state response, especially in the trade area, to the crisis. He finds that it was during the sharp 1997/98 crisis, when Indonesia started to use a non-protectionist strategy to cope with a crisis and to initiate the recovery process. He describes that, before, periods of inward-looking strategies were responsible for wide-spread inefficiencies and a lack of competitiveness in the Indonesian economy. Hence, during the last crisis sustained actions to build macroeconomic resilience, to improve competitiveness and to bolster the sources of domestic economic resilience, have been chosen as the best strategy for Indonesia to cope with the crisis and to speed up the recovery process.

C. Quantification of non-tariff protection

Michael Ferrantino opens chapter VIII with a discussion on the quantification of NTMs and offers 11 points addressing important aspects, methodological and other, of NTM. He mentions, for example, the similarities between NTM and trade facilitation and says that removing NTM is equal to facilitating trade and therefore the economic analysis of NTM should be similar to the analysis of trade facilitation. He argues further that the economic distortion of NTM is potentially very large. This distortion can be measured as a price or a quantity gap, while price gaps are preferable in many applications. Another point is that the analysis of NTMs should aim at linking policy concerns with observed economic effects. He also gives a list of useful data sources for NTM policies as well as trade data and points to the NTM network where analysts can discuss and post existing NTM research.

An important conclusion of Ferrantino’s chapter is that the best estimates of NTM effects are crafted with detailed knowledge of products and markets, one product and country at a time. However, policymakers often want to know about many products and countries at once. This then leads to the so-called tradeoff between “handicraft” and “mass-produced” estimates of NTM effects. Another conclusion is that the appropriate price comparisons for NTM analysis require the identification of a point in the supply chain where prices are to be compared. When there are multiple policies present, a single estimated price gap summarizes their effects but does not provide information on the effects of individual policies.

D. Non-tariff protection and trade facilitation

The linkage between trade facilitation and NTP is also tackled in chapter V by Ben Shepherd who undertakes an analysis to clarify the role of trade facilitation in lowering trade costs by decomposing them into tariff and non-tariff components in the cases of APEC and ASEAN. He shows that in both APEC and ASEAN, tariff reductions have played an important role in reducing overall trade costs. Progress on non-tariff trade costs has been much less impressive. This finding raises serious questions as to the effectiveness of trade
facilitation efforts in the Asia-Pacific region, which should be clearly focused on non-tariff trade costs.

E. Non-traditional use of non-tariff protection

From the definitions of NTM described above, services are not mentioned. On one hand, this is not surprising as services in principle are not tangible and do not cross border ‘as such’ (i.e. in the same way goods do) and thus tariffs on them do not apply. By extension then, any measure that is applied in services trade would be of a non-tariff type but also, and more importantly, it would be a “behind-the-border” type or in other words part of the regulatory measures. Thus it is even more difficult to quantify NTP in services. It is not surprising that Martin Molinuevo in chapter VII, who had the task to study services, first explains the nature and dynamics of protection (liberalization) in the trade of services. This discussion is followed by discussing recent instances of protectionism. Molinuevo finds that most of the protectionism motivated by crisis was in the basket of stimulus measures and investment measures. His analysis suggests that a number of economic, legal and institutional factors complement each other to create strong incentives against a general surge of protectionism in the area of services. These elements, indeed, de facto eliminate from the domestic regulatory capacity a number of instruments that would allow governments to protect domestic industries and isolate them from the global economy.

Molinuevo also confirms the general perception that international trade in services remains an area which is less accessible to direct governmental intervention. While in the area of trade in goods, the governments have a number of instruments to affect particular chosen goods at their disposal. When it comes to trade in services, regulatory action for the individual sectors tend to be more costly and less readily available, which acts as a disincentive for the introduction of protectionist measures. National policymakers are better equipped to focus on the development of general legal frameworks, leaving sector-specific matters to be developed by specialized agencies with expertise in the individual sector. In the negotiating context, this translates into a need for trade and foreign ministries to maintain close contacts with specific regulatory agencies.

One area which is often mentioned as offering a “great” potential for use of NTP is trade in environmental goods and services. Swapna Nair in chapter VI investigates various aspects of this “angst” of environmental protection. She identifies three sets of policies which could be used to assist with mitigation of climate change without harming trade but admits that, such policies would work best under a multilateral agreement on climate change mitigation rather than under a maze of disconnected unilateral policies. Reaching a multilateral agreement on environment is undoubtedly difficult because it has to take into account the interests and requirements of a varied set of countries at different levels of development. Further, the debate is rooted in the political economy since it is not just the current but the past (and justly so since climate change is a cumulative process) which is being considered to determine actions required. The failure to reach a multilateral agreement would lead to a world of non-cooperative unilateral actions which might not only be ineffective in dealing with the problem of climate change but might also lead to a situation of conflict and mistrust between economies. A multilateral agreement might be difficult but it cannot be impossible if the right set of incentives and the right spirit of engagement is there.
F. Is non-tariff protection more used than other forms of protection when times are bad?

Evenett and Wermelinger in chapter I use the Global Trade Alert database to provide a snapshot of current protectionist dynamics. This chapter confirms the contemporary importance of “murky” protectionism. The overview of the crisis-era protectionist landscape showed that in each quarter of the past 18 months more than half of discriminatory measures are not tariffs or trade defense measures, but tend to fall under weaker or no WTO rules. The harm inflicted by and the discrimination against the Asia-Pacific region, is quite similar to global tendencies; although tariff-related measures are slightly more prevalent in this region. Evenett and Wermelinger provide an estimate about the harm done to China, which is the target of the greatest number of foreign discriminatory measures: at least 10 per cent of its exports are harmed and more than 50 per cent of those exports are affected by “murky” forms of protectionism, notably, local content requirements and bailouts.

The authors derive two important implications for policymaking based on their analysis. Given the cumulative damage done to the world economy from crisis-era protectionism, if the world economy continues to recover, the national policymakers should not only resist any temptations for future protectionism but also start to unwind those discriminatory measures in place. Both national ministries and international organizations, such as WTO, could identify the most harmful crisis-era interventions and start talks on how such measures can be withdrawn. In addition, WTO and other international organizations should assist small and poor countries to obtain, when possible, exemptions of discrimination from their trading partners. Secondly, and more applicable to the mid and longer run, government leaders should rethink the role of WTO in the light of contemporary experience. If a consensus emerges that current multilateral trade rules were not strong enough to resist from protectionist temptations during the global economic crisis, then policymakers may wish to initiate negotiations on new rules on subsidies, public procurement, export taxes and incentives, and the other measures used frequently in recent years. Such negotiations would go well beyond the Doha Round mandate and it is an open question as to whether that mandate – if unmodified – best serves the interests of the world trading system.

G. A way forward

Discussions in the workshop and papers presented in this volume confirm once again that despite popularity of non-tariff protection among the policymakers, this area is under-researched, in terms of quality and quantity of data as well as the assessment of impacts. The old areas where NTP has been used to limit trade are now being enriched by new instruments (mostly belonging to “behind-the-border” groups) and also targeting new linkages of trade such as climate change, environmental protection, labour standards, or protection of the public in a variety of areas (health, public morals, etc.).

Signs that the crisis has weakened or passed are getting stronger and rather soon countries will have to completely abandon bail-out programmes. In many cases, this will also mean that they will have to give up the use of NTP that was adopted during the crisis. Therefore this will be a good test to see how difficult or easy it is to wean producers and services providers off such protection.
References